



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

944 WRIT PETITION NO. 2567 OF 2024

RAJESH PITAMBER SONAWANE
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS CHIEF SECRETARY AND OTHER

...

Advocate for the Petitioner : Mr. Sant Tapan Kishor
GP for Respondents/State : Mr. A.B. Girase

...

CORAM : RAVINDRA V. GHUGE &
R.M. JOSHI, JJ.

DATE : 7th March, 2024

PC. :-

1. The Petitioner who claims to be in employment, has introduced himself as being a social service worker associated with Non-Governmental and Non-Profitable Organizations and that he works day and night for the welfare of the people and is a member of the Dalit Panther political outfit. He has put-forth prayer clause-A and B as under:

“A) That, the Hon'ble court by writ of Mandamus or Certiorari or any other writ or direction in the like nature may direct the Respondents to consider the name of the Petitioner to be appointed as the member (Social Economic Development) of the Commission for Schedule Caste and Schedule Tribe on merit and eligibility;

B) That, the Hon'ble court by writ of Mandamus or Certiorari or any other writ or direction in the like nature may stay the

appointment proceedings initiated by the Respondents for appointment of the said post i.e. member (Social Economic Development) on the panel for Commission of Schedule Caste and Schedule Tribe;”

2. The learned GP has relied upon a judgment of this Court delivered at the Principal Seat dated 20.06.20213, in Writ Petition (Stamp) No.1517/2023, more particularly, paragraph nos.17 to 20 which read as under:

“17. The Petitioners have also relied upon judgments of various other High Courts. The common thread running through these pertain to changes made by subsequent governments to contracts executed by erstwhile governments wherein the former has avoided the contract or otherwise failed to act in aid of the same. We have gone through the precedents. We find that all these authorities relate either to civil posts or to contractual arrangements. They are, therefore, clearly distinguishable. The authorities cited are:

- (a) State of Haryana v State of Punjab & Anr,
- (b) State of Uttar Pradesh & Anr v Johri Mal,
- (c) State of Tamil Nadu & Ors v K. Shyam Sunder & Ors,
- (d) Adi Sivachariyargal Nala Sangam v Government of Tamil Nadu & Anr,
- (e) Shaikh Mahemud s/o Shaikh Maheebub v State of Maharashtra
- (f) Sanjay v State of Maharashtra.

18. Dr Saraf, on the other hand has relied upon a decision of the High Court of Punjab and Haryana in the matter of Som Dutt and Others v. State of Haryana and Ors. A similar question was considered by the Punjab and Haryana High Court, which held that appointments to high public offices like the Chairman of a Board/Commissions etc., and which are not made by following any competitive selection process for which no minimum tenure is prescribed, are at the pleasure of the government and can

be terminated at any time in exercise of the doctrine of pleasure without any cause shown.

19. *Dr Saraf has also relied upon a decision of the Apex Court in the matter of State of Karnataka and Ors v. Ameerbi & Ors." The question before the Supreme Court was whether Anganwadi workers held a civil post to attract rules framed under the proviso to Article 309 of the Constitution of India. The Apex Court held that since the recruitment rules are ordinarily applicable to employees of the State and are not applicable to persons not holding a post under a statute, the State is not required to comply with the constitutional scheme of equality as adumbrated by Articles 14 and 16 of the Constitution of India.*

20. *Thus, considering the facts in the present case and in view of the legal position that the Commission has no statutory nor constitutional recognition, we have no hesitation in holding that the order cancelling the appointments of the Petitioners to the posts of Chairman/Members of the Commission respectively cannot be said to be illegal, unlawful or otherwise vulnerable. No fundamental right to continue on the said posts is vested in the Petitioners. The GO dated 2nd December 2022 cancelling their appointment cannot be held arbitrary or discriminatory."*

3. It is therefore obvious that there cannot be a Writ of Mandamus to the Respondents to appoint the Petitioner as a Member of the Commission. **This Writ Petition is devoid of merit and is, therefore, dismissed.**

[R.M. JOSHI, J.]

[RAVINDRA V. GHUGE, J.]